



**MINUTES OF THE GILA COUNTY  
BOARD OF ADJUSTMENT  
Thursday, February 20, 2020**

Gila County Board of Supervisors Conference Room  
610 E. State Hwy 260, Payson, AZ  
Gila County Community Development Conference Room  
745 N. Rose Mofford Way, Globe, AZ  
9:00 A.M.

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## **REGULAR MEETING**

1. The meeting was called to order at 9:00 A.M. by Chairman Mickie Nye.
2. Pledge of Allegiance was led by Mary Lou Myers.
3. Roll Call: Shealene Loya called the roll; Chairman Mickie Nye (in Payson), Brian Goslin (in Globe), Mary Lou Myers (in Payson). A quorum was present.

Community Development Staff Members Present: Michelle Dahlke-Senior Planner and Shealene Loya-Administrative Assistant.

4. Review and Approval of the Board of Adjustment Minutes from January 16, 2020. Chairman Nye stated that one change needed to be corrected. No other changes were suggested. Mrs. Myers motioned to approve the minutes with the amendment and Mr. Goslin seconded the motion.
5. **Director/Planner Communication:** At any time during this meeting of the Board of Adjustment, the Director and/or Planner of Community Development may present a brief summary of current events. No action may be taken.

Mrs. Dahlke took this opportunity to welcome Mr. Goslin as the new member of the Gila County Board of Adjustment.

### **Information/Discussion/Action:**

### **Public Hearing:**

6. **AV-19-43 JOSHUA SPARKMAN:** An appeal has been filed against the approval of an Administrative Variance to allow the applicant to place a residence on the property with a 10' front yard setback where 20' is required. The property is vacant land located in the Beaver Valley Estates, Unit 3 subdivision in Payson, AZ (APN # 302-17-276) and is zoned General Unclassified (GU).

Mrs. Dahlke provided the Board with some background on the case. The applicant/property owner claimed that the subject property was limited in term of the size of home that could be placed on the property due to the existing septic system. Staff received nine appeals against the approval of the Administrative Variance from several property owners in the vicinity of the subject property. Staff approved the Administrative Variance due to the restriction of space and given that the subject lot is much smaller than surrounding property sizes.

Chairman Nye opened the hearing up to public comment.

Mr. Sparkman was first to speak and gave the Board some background information regarding his purchase of the property and the reasoning for applying for the Administrative Variance. He stated that due to the existing septic system and the size and shape of the lot, the parameters that are left are too small to house a residence.

Cynthia Brennan, an adjoining property owner, spoke next. She stated that a possible compromise could be met by placing the home at a 15' setback rather than a 10' setback due to visibility issues.

Chairman Nye closed the public hearing.

Chairman Nye asked if staff has reviewed the setback restrictions set in the CC&R's for the subdivision to which Mrs. Dahlke stated that Gila County does not enforce any regulations set by CC&R's. Mrs. Myers commented that lots with existing septic systems are very sought after, but buyers tend to not do their due diligence to find out how large of a home they can put on a property. Mrs. Dahlke added that the septic system was permitted and installed in 2015.

Upon motion by Mr. Goslin, seconded by Mrs. Myers, the Board upheld the staff approval of the Administrative Variance.

7. **V-19-08 DOUGLAS & KAREN MCHUGH:** This case is a continuation from the January 16, 2020 meeting. An application to allow for a 6" side yard setback and a 4' rear setback for

an existing accessory structure. The property is located at 3958 Apache Trail in Pine, AZ (APN # 301-18-118) and is zoned Residential One Limited District- Density District 12 (R1L-D12).

Mrs. Dahlke stated that at the January meeting, potential issues with the deck possibly encroaching on the rear setback was brought up by an adjoining neighbor. Staff has visited the property and researched the history of the deck, which is considered to be non-conforming due to the fact that it was built prior to the building code being adopted in Gila County. Staff determined that although the deck is considered to be non-conforming, it can remain as long as it is not enlarged, enhanced, or replaced. Staff maintains its recommendation that the Board approve the Variance with the condition that the side that sits 6-inches from the side property line be painted with a fire retardant.

Chairman Nye opened the meeting up for public comment.

Mr. and Mrs. McHugh informed the Board that the structure was on the property prior to them purchasing it.

Ed Votruba, an adjoining property owner, was the next to speak. He informed that Board of his concerns regarding potential fire damage due to the lint trap of the laundry room, which he claimed was on his property. He also stated that the electrical line, water line and grey water line are all on his property and requests that they be moved.

Mrs. Dahlke suggest to the Board that the Community Development Building Official, Randy Pluimer, explain the building code requirements in regard to the laundry room. Mr. Pluimer informed the Board that his suggestion would be to paint the side of the laundry room that has the 6-inch setback with an intumescent paint, which foams up when it comes into contact with fire. Mr. Pluimer also stated that the laundry room vent direction will not control a fire if one was to happen. He also stated that when a building permit is filed for laundry room, the utilities will be looked at to make sure they are on the subject property and not on the adjoining property.

Mrs. McHugh informed the Board that moving the utilities and grey water line will not be an issue if it is determined that they are on the adjoining property.

Virgil Conrad, an adjoining property owner, stated that he was opposed to allowing the laundry room to remain where it was and that it should be removed.

Gene Brusacoram, an adjoining property owner, also voiced concerns regarding potential fire hazards involving the laundry room.

Mrs. Dahlke explained to the Board that the structure will be considered as “non-conforming” and can be repaired, but not expanded.

Upon motion made by Mrs. Myers, seconded by Mr. Goslin, the Board unanimously approved the Variance with the conditions that a building permit be obtained and the side of the laundry room with the 6-inch setback be painted with a fire-retardant paint.

8. **V-19-09 SCOTT & MICHELLE BUZAN**: A variance applicant to permit a 6’ front yard setback where 20’ is required for an existing single-family residence. The property is located at 123 North Roper Lane in the Verde Glen subdivision in Payson, Arizona (APN # 302-05-023) and is zoned General Unclassified (GU).

Homer Vela, Assistant County Manager of Gila County, addressed the Board first. Mr. Vela stated that although Mr. Buzan serves as Director of Gila County Community Development, Mr. and Mrs. Buzan are also Gila County residents and are applying for the Variance as residents. Mr. Vela informed the Board that Jason Moore, County Attorney for Navajo County, would be acting on behalf of Gila County to answer any legal questions or concerns.

Mrs. Dahlke began her presentation by giving the Board some background on the property and the reason for the Variance. The property owners purchased the property in 1993 and applied for a building permit in 2001 to construct a garage with a guest quarters and covered deck. A recent survey done on the property revealed that a portion of the covered deck encroached into the 20’ front yard setback by 14’.

Chairman Nye opened the hearing up for public comment.

Mr. Buzan, property owner and applicant, presented his case to the Board. Mr. Buzan stated that he is not presenting the case as Community Development Director nor as the Zoning Inspector, but as a Gila County property owner with his wife and utilizing a service offered by Gila County to all property owners who reside in unincorporated areas of Gila County. Mr. Buzan reiterated the property history given by Mrs. Dahlke. He stated that at the time the building permit for the garage addition was issued, he was working as a building inspector for Gila County, but was not involved in that capacity with the addition. Mr. and Mrs. Buzan listed their property for sale in 2019 and had a survey done on their property which revealed the addition to be encroaching on the front yard setback. In December of 2019, a Variance application was submitted for this encroachment. Mr. Buzan stated that approval for the Variance is warranted due to the specific conditions, special circumstances and extreme hardships associated with the property that meet all criteria listed in State statutes and the Gila County Zoning Ordinance.

Mike Harper was the next to address the Board. Mr. Harper argued that a Variance cannot be approved as a means of correcting a mistake made by a contractor or by a draftsman. Mr. Harper stated that property line markers are in place to show the boundary line between Roper Lane and the Buzan property and a survey from 1994 revealed the boundary as well. Mr. Harper informed the Board that 2 property owners, David West and David Owens, in the Verde Glen subdivision near the subject property were required to apply for Variances for their building projects. Mr. Harper claimed that Mr. and Mrs. Buzan have a gate that restricts public access to the road in front of their property. Mr. Harper also claimed that the Forest Service has concerns regarding an encroachment of a driveway leading to the Buzan's garage and a fenced, cultivated lawn area. Mr. Harper also claimed that there is also a side yard encroachment violation on the southern side of the Buzan property. Mr. Harper also stated that based on the Zoning Ordinance, the Board of Adjustment cannot grant a Variance due to a personal or financial hardship. Mr. Harper informed the Board that the property owners filed an application with the Board of Supervisors to have part of Roper Lane abandoned to them and suggested that Roper Lane could be adjusted away from the subject property in order to allow for a setback.

Hallie Overman-Jackman, resident of Gila County, addressed the Board and stated that her purpose for speaking was to inform the Board of complaints that she has heard from the community in regard to the Community Development office.

Dave West, a property owner in the Verde Glen subdivision, was next to speak. He explained that he has had to receive multiple Variances in the past for his property due to setbacks.

Mr. Buzan spoke next to address some of the concerns that were brought up by other people in attendance.

Mr. Moore stated that according to State law, the Board of Adjustment is the entity that would hear and make a decision on this case. Although Mr. Buzan is the Director of Gila County Community Development, he has the same right as any property owner in Gila County to apply for a Variance and that the Board of Adjustment is the only venue the Variance can be heard.

The Board reiterated that this issue was the result of a survey that was done on the subject property which revealed an encroachment of 15' into the front yard setback where 20' is required.

Chairman Nye closed the meeting to public comments.

Deb Bradway, employee of Gila County Community Development, stated to the Board that Variance cases such as this have been approved many times in the past. An example would be the case that was heard at this same hearing involving the built-without-permit laundry room with a 6-inch side yard setback.

Upon motion by Mrs. Myers, seconded by Chairman Nye, the Board unanimously approved the Variance for Case No. V-19-09.

9. **Adjournment.** Mrs. Myers made a motion to adjourn, seconded by Chairman Nye. The motion to adjourn was unanimously approved at 11:26 A.M.